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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 395 OF 2007

APPELLANTS

1) Smt Sita bai Wife of Budhram aged about 50 years, Caste Sahu;

2) Ku.Vishini Dop Late Shri Budhram Sahu, aged about 19 years;

3) Ku Pramila D/o Late Shri Budhram Sahu, aged about 18 years;

4) Ku Roopa Sahu D/o Late Shri Budhram Sahu, aged about 14 years;

The appellant No.4 is minor through her natural guardian mother Smt. Sitabai Wife of Late Shri Budhram Sahu; and all residents of Parsuram Ward Bhathapara, Police Station Bhathapar Town, District Raipur (CG)

Versus

RESPONDENTS

1) Bhagwan Singh Son of Shri Dhanauram, aged about 24 years, Resident of Khajari Police Station Hirri, District Bilaspur (CG)

2) Satyandra Gupta Son of Shri Umashankar Gupta, Resident of Bus Stand Karbala Road Bilaspur (CG)

3) Smt Shobhna Jha Wife of

Shri Arun Jha, Resident of Bangalipara Sarkanada, District Bilaspur (CG)

4) Pundilal Son of Shri Surlal, aged about 50 years, Resident of Tigdi (Maharashtra), presently residing at Aamanaka Raipur (CG)

(Driver of offending vehicle bearing MCY - 4979)

Present : Shri Ashok Soni, counsel for the appellants.

None for the respondents.

ORAL ORDER

(Passed on 2nd April, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

This is an appeal filed by claimants/appellants under Section 173 of the Motor Vehicle Act 1988 (henceforth "the Act") for enhancement of compensation against the award dated 22.12.2006, passed by Additional Motor Accident Claim Tribunal, Bhatapara, Dist Raipur (CG) (henceforth "the Tribunal") in claim case No.28/2005, whereby compensation of Rs.1,20,000/- has been awarded to them.

2) Factual matrix of the case, in brief, is that on 17.05.2005 at about 2.30 pm Budhram Sahu (since deceased) was returning in bus No.CG 10/ZA/0752 (for short "bus") from Bilaspur to Lohda after attending a marriage ceremony. The Driver of the

bus driving it in a rash and negligent manner dashed the bus with the truck No. MCY 4979, which was parked on road without having any indicator, resultantly deceased sustained severe injuries and succumbed to those. Appellants /claimants claiming themselves the legal representatives of the deceased filed application under Section 166 of the Act against drivers of both the vehicles and owners of the bus. Respondents No.1 & 4 are driver of bus & truck respectively and respondents No. 2 & 3 are owners of the bus. Respondents No.2 & 4 remained *ex parte* whereas respondents No.1 & 3 contested the claim.

3) Tribunal allowed compensation as below :

Dependency	Rs.80,000-00
Funeral	Rs. 5,000-00
Consortium	Rs.15,000-00
Love & affection	Rs.20,000-00
Total	Rs.1,20,000-00

4) Heard learned counsel for the appellants / claimants who contended that Tribunal erred in awarding just & proper compensation.

5) We have gone through the award. Deceased took voluntary retirement and obtained all service benefits. After a lapse of around two years he met with accident and died. Salary certificates Ex.P/10 & P/11 are for the year 2002. Deceased was

patient of sugar & heart, therefore, he took voluntary retirement. There is no evidence to support that he was doing any work or earning anything before his death. Admittedly, age of deceased was 60 years, learned Tribunal took notional income as Rs.15,000/- per year reduced 1/3rd and after applying multiplier of 8 assessed loss of income. Tribunal allowed compensation on other heads also.

6) We do not find any illegality or infirmity in the finding of facts recorded by the Tribunal. Tribunal sympathetically considered the claim and allowed just & proper compensation. Therefore, the appeal being devoid of merit is liable to be dismissed and is accordingly dismissed.

Sd/-
Chief Justice

Sd/-
V.K. Shrivastava
Judge